

Appl. No. 10/826,552

Amdt. dated May 4, 2005

Reply to Office action of March 21, 2005

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-28 are in the application. None of the claims have been amended.

The only issue in the Office action of March 21, 2005, was the rejection of several claims over a combination of Krammer (WO 01/76857 A1) in view of Hartmann (US 4,475,451 and 5,752,438) under 35 U.S.C § 103(a). We respectfully traverse.

The reference to Krammer (WO 01/76857 A1) was published on October 18, 2001. The inventor of the published PCT application was the same Volker Krammer that is also mentioned as the sole inventor in the instant application. The PCT publication to Volker Krammer is not available as prior art against the instant application for the following two primary reasons:

First, an applicant's own work cannot be prior art against his own later work. Accordingly, 35 U.S.C. § 102(a) does not apply here. Section 102(a) refers explicitly to work "by others" or to a printed publication "before the invention" by applicant. Section 102(a) does not apply to the instant case.

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Second, a prior art reference to the same applicant can only establish a bar situation, if at all. 35 U.S.C. § 102(b) defines a grace period from a printed publication of the invention to the "date of the application for patent in the United States." That is, as long as a new application is effected within the 12-month grace period, the older publication does not establish a bar.

The instant application was filed in the United States on October 18, 2002. Reference is had to 35 U.S.C. § 363, which states that an international application that designates the United States has the same effect as any other application regularly filed in the United States (with the exception of 35 U.S.C. § 102(e), which does not apply to the instant situation). The publication of the first international application WO 01/76857 A1 by Volker Krammer, therefore, was not more than 12 months prior to the instant application in the United States.

In view of the foregoing, the older Krammer reference is not available as prior art or as a bar against the instant application. Accordingly, the rejection over the combination of Krammer with Hartmann is moot.

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It is appreciatively noted that several claims have been indicated as being allowable. In view of the above, however, all of the claims are in condition for allowance and the issuance of a Notice of Allowance and a Notice of Allowability are respectfully solicited.

Respectfully submitted,



For Applicant

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WHS:cp

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